

1 John S. Miller, Jr. (State Bar No. 77446)  
jmiller@coxcastle.com  
2 Dwayne P. McKenzie (State Bar No. 175162)  
dmckenzie@coxcastle.com  
3 COX, CASTLE & NICHOLSON LLP  
2049 Century Park East  
4 28th Floor  
Los Angeles, CA 90067-3284  
5 Telephone: (310) 284-2200  
Facsimile: (310) 284-2100

6 Attorneys for Defendant Management Trustees as set forth on  
7 the signature page [Local Rule 3-4]

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

10  
11 DAVID SLACK, individually, and on behalf of  
12 all others similarly situated; JOHN JARBOE,  
13 individually, and on behalf of all others similarly  
14 situated; KEN BETTIS, individually, and on  
15 behalf of all others similarly situated; KENNY  
MENDOZA, individually, and on behalf of all  
others similarly situated, CLYDE ELI,  
individually, and on behalf of all others similarly  
situated,

16 Plaintiffs,

17 vs.

18 INTERNATIONAL UNION OF OPERATING  
ENGINEERS, a trade union, et al.

19 Defendants.

20 Case No. 3:13-CV-05001-EMC

21  
22 **STIPULATION AND [PROPOSED] ORDER**  
**SETTING SCHEDULE FOR**  
**DEFENDANTS' RESPONSES TO**  
**PLAINTIFFS' SECOND AMENDED**  
**COMPLAINT**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 This Stipulation is submitted pursuant to Local Rule 6-2 and the Court's August 19, 2014  
 3 Order and is entered into by and between all Plaintiffs and Defendants represented by the undersigned  
 4 counsel (collectively, "Stipulating Defendants," and collectively, with Plaintiffs, the "Parties") for the  
 5 purpose of efficiently managing this litigation involving numerous parties and complex issues.

6 1. The original Complaint in this matter was filed on October 27, 2013.

7 2. On March 10, 2014, pursuant to stipulation, the Court entered an Order Regarding Case  
 8 Management Conference (the "March 10, 2014 Order") (Dkt. No. 54). In accordance with the  
 9 deadlines set forth in the March 10, 2014 Order, Stipulating Defendants filed their respective Rule 12  
 10 motions directed to the FAC ("Rule 12 Motions") (Dkt. Nos. 99; 106; 107; 109/110; and  
 11 114/115/136), Plaintiffs filed their respective oppositions on May 22, 2014 (Dkt Nos. 145; 146; 147;  
 12 149; and 150), and Defendants filed their Replies on June 5, 2014 (Dkt Nos. 155-159).

13 3. The hearing on the Rule 12 Motions was held on July 10, 2014 before the Court, after  
 14 which the Court took the Rule 12 Motions under submission (Dkt. No. 171).

15 4. On August 19, 2014, the Court entered an Order Granting Defendants' Motions to  
 16 Dismiss with Leave to Amend (Dkt. No. 176). Pursuant to this Order, Plaintiffs' second amended  
 17 complaint was to be filed within 60 days of the Order and, to the extent Defendants wished to bring  
 18 future motions to dismiss, to coordinate and present one single motion.

19 5. Plaintiffs filed their Second Amended Complaint on October 20, 2014.

20 6. Accordingly, the Parties now respectfully ask the Court to enter the below deadlines in  
 21 connection with future scheduling for this matter.

22 7. This Stipulation is not offered for any dilatory or improper purpose, but rather solely to  
 23 effectively manage the scheduling of case events and to ensure the most efficient use of resources by  
 24 the Court, the Parties, and their counsel as well as consider Parties' prior scheduling commitments.

25

26

27

28

## STIPULATION

Pursuant to Local Rule 6-2 and the Court's August 19, 2014 Order, subject to the Court's approval, Plaintiffs and the Stipulating Defendants, desiring to efficiently manage this complex matter, hereby stipulate that:

1. Defendants' response to Plaintiffs' Second Amended Complaint (coordinated, if in the form of motions to dismiss) is to be filed no later than December 5, 2014.
2. Plaintiffs' opposition brief (if motions to dismiss are filed) to be filed no later than January 15, 2015.
3. Defendants' coordinated reply in support of any motions to dismiss, if filed, to be filed no later than January 29, 2015.
4. The hearing on Defendants' motion, if filed, to be held on February 12, 2015.

DATED: November 4, 2014

## COX, CASTLE & NICHOLSON LLP

By: /s/ Dwayne P. McKenzie  
Dwayne P. McKenzie  
Attorneys for Defendants Kevin J. Albanese, F.G.  
Crosthwaite, Thomas Holsman, John M. Humber, and  
Richard Piombo

Dated: November 4, 2014

## MOORE & LEVIANT LLP

By: /s/ J. Mark Moore

J. Mark Moore  
H. Scott Leviant

## BERNS WEISS LLP

Jeffrey K. Berns  
Lee A. Weiss  
Albert G. Lum

Attorneys for Plaintiffs David Slack,  
John Jarboe, Ken Bettis, Kenny Mendoza  
and Clyde Eli

1 Dated: November 4, 2014

**LAW OFFICE OF KENNETH C. ABSALOM**

2 By: /s/ Kenneth C. Absalom

3 Kenneth C. Absalom  
4 Attorneys for Defendants Russell E Burns,  
5 Dan Reding, Carl Goff, Pete Figueiredo, and Steve  
6 Ingersoll

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## ECF CERTIFICATION

Pursuant to Local Rule 5-1(i)(3), the filing attorney attests that he has obtained concurrence regarding the filing of this document from the signatories to the document.

DATED: November 4, 2014

## COX, CASTLE & NICHOLSON LLP

By: /s/ Dwayne P. McKenzie  
Dwayne P. McKenzie

Attorneys for Defendants Kevin J. Albanese, F.G. Crosthwaite, Thomas Holsman, John M. Humber, and Richard Piombo

1 **ORDER**  
2

3 Pursuant to the foregoing Stipulation of counsel and for good cause shown, IT IS HEREBY  
4 ORDERED that the Parties adhere to the below schedule:

5 5. Defendants' response (coordinated, if in the form of motions to dismiss) to be filed no  
6 later than December 5, 2014.  
7  
6 6. Plaintiffs' opposition brief (if motions to dismiss are filed) to be filed no later than  
8 January 15, 2015.  
9  
8 7. Defendants' coordinated reply in support of any motions to dismiss, if filed, to be filed  
9 no later than January 29, 2015.  
10  
10 8. Hearing to be held on February 12, 2015.

11 **IT IS SO ORDERED.**

12 Dated: 11/6, 2014

